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SECRETARY OF STATE

BEFORE THE TENNESSEE BOARD OF PHARMACY

IN THE MATTER OF:

GLEN C. BROOKS, (Lic #: C-2863)
BROOKS PHARMACY, (Lic #: 914)
4701 Trousdale Drive
Nashville, Tennessee 37220

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Docket No. 12.12-095013A

FINAL ORDER

THIS CAUSE came to be heard before the Tennessee Board of Pharmacy in Nashville, Tennessee on May 15, 2007 upon Notice of Hearing and Charges filed on March 22, 2007. Present at the hearing were Board members Sheila Mitchell, Robert Mitchell, Julie Frazier, Monica Franklin, Albert L. Hill, and David T. Bess. The Honorable James A. Hornsby, Administrative Law Judge presided at the hearing. The State of Tennessee was represented by Alison G. Cleaves, Chief Counsel for Regulatory Boards, Department of Commerce and Insurance. The Respondent, Glen C. Brooks was present with counsel, Hal Harden, Esq. and Jack Butler, Esq.

ORDER OF REVOCATION

Upon consideration of the testimony of witnesses and upon the entire record, the Board is of the opinion and finds as follows:

FINDINGS OF FACT

1. Respondent, Glen C. Brooks, was licensed to engage in the practice of pharmacy in the State of Tennessee by the State of Tennessee Board of Pharmacy, having been granted license number 2863 on June 22, 1962.
2. Respondent, at all times pertinent hereto, was the owner and pharmacist-in-charge of Brook's Pharmacy located at 4701 Trousdale Drive in Nashville, Tennessee, having been granted license number 914 for the pharmacy by the Tennessee State Board of Pharmacy on August 5, 1963.
3. As the pharmacist in charge at Brooks Pharmacy, the Respondent operated the pharmacy from 1963 to present. Also during that time, the Respondent was primarily the dispensing pharmacist at Brooks Pharmacy.
4. During the time that the Respondent operated the pharmacy, the Respondent engaged in unlawful, unethical, dishonorable and immoral conduct by dispensing medications to patients, including controlled substances, when the patients did not have a prescription for the medications dispensed. The Respondent would only dispense five (5) or ten (10) tablets of controlled substances and legend drugs to patients for them to try the drug when the patient did not have a prescription. After the Respondent dispensed the medications, he would tell his patients to obtain a prescription and provide it to him at a later date.
5. Respondent also failed to provide his patients with complete and uncompromised pharmaceutical service and failed to use his skill and professional judgment as a pharmacist by failing to dispense the medications that were prescribed and in the quantities prescribed and by dispensing controlled substances to patients that were being treated for drug addiction. The

Respondent also compromised the health, safety and welfare of the public by placing filled prescription bottles under a trash can outside of his pharmacy to be picked up.

6. Specific instances of the Respondent's conduct are as follows:

(a) On or about October, 2006 and December, 2006, the Respondent dispensed Lortab to a patient with the initials "TB" when the patient did not have a prescription for the medication. Respondent would often dispense the Lortab to "TB" in an unlabeled bottle;

(b) On or about November, 2006, the Respondent dispensed Methadone to a patient with the first initial "T" when she did not have a prescription for the medication;

(c) On or about January, 2007, the Respondent dispensed Ultram to a patient with the first initial "M" when she did not have a prescription and when the Respondent knew that the Respondent was being treated for drug addiction;

(d) During the time that the Respondent operated the pharmacy, the Respondent substituted a patient's prescription without prescriber authorization for the patient with the initials "RH" by replacing his Robaxin with Soma. Respondent dispensed Ambien and Cataflam to the patient without a prescription. Respondent also changed the tablet amount of the patient's Lortab prescription without prescriber authorization. On several occasions, the Respondent dispensed only fifty (50) Lortab tablets to the patient, "RH" when the prescriber had prescribed one hundred (100) tablets. Respondent then recorded a refill for the remaining fifty (50) tablets that were not dispensed. Respondent dispensed approximately six hundred (600) Lortab tablets to this patient within one (1) month;

(e) Respondent also dispensed Lortab to a patient with the initials "RJ" when the patient did not have a prescription. Respondent dispensed the medication to the patient and

told the patient to bring in a prescription afterwards. Respondent did not dispense the medication directly to the patient, but left the medication in the patient's car;

(f) Also during the time that the Respondent operated Brooks Pharmacy, the Respondent dispensed Xanax and Vicodin to a patient with the first initial "E" when the patient did not have a prescription;

(g) Respondent dispensed Lortab, Xanax, and Soma to a patient with the first initial "J" when she did not have a prescription for the medication. Respondent dispensed thirty (30) Lortab tablets and approximately twenty (20) to forty (40) Xanax tablets to the patient on a weekly basis without a prescription;

(h) Respondent dispensed Hydrocodone to a patient with the first initial "R" when she did not have a prescription.

10. The aforementioned conduct committed by the Respondent constitutes unprofessional, dishonorable, immoral, unethical and illegal conduct that displays the Respondent's incapacity to engage in the practice of pharmacy with reasonable skill, confidence and safety to the public.

CONCLUSIONS OF LAW

1. It is further alleged that the Respondent's acts and conduct as set out in the foregoing "Allegations of Fact" constitute violations of Tenn. Code Ann. §53-10-104(a), the relevant portion of which reads as follows:

(a) It is unlawful for any person, firm or corporation to possess, sell, barter or give away any drug known as legend drugs, as defined in §53-10-101, except upon the

written prescription of a duly licensed physician, certified physician assistant, nurse authorized pursuant to §63-6-204 or §63-9-113, who is rendering service under the supervision, control and responsibility of a licensed physician, and who meets the requirements pursuant to §63-7-123, a dentist, an optometrist authorized pursuant to §63-8-102(12), or a veterinarian, and compounded or dispensed by a duly registered pharmacist.

Respondent's violation(s) of Tenn. Code Ann. §53-10-104(a) constitute(s) grounds for the revocation or suspension the Respondent's license to engage in the practice of pharmacy and/or the Respondent's pharmacy license for Brooks Pharmacy in the State of Tennessee pursuant to Tenn. Code Ann. §63-10-305 and/or the imposition of other lawful discipline, including the imposition of civil penalties pursuant to Tenn. Code Ann. §63-10-305 and Tenn. Comp. R. & Regs. Rule 1140-8-.01 [CIVIL PENALTIES] as well as the assessment of investigatory and hearing costs against the Respondent pursuant to Tenn. Code Ann. §561-311 and Tenn. Comp. R. & Regs. Rule 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS].

2. It is further alleged that the Respondent's acts and conduct as set out in the foregoing "Allegations of Fact" constitute violation(s) of Tenn. Code Ann. §63-10-407 [DISPENSING OF MEDICATION PRIOR TO AUTHORIZATION], the relevant portion of which read as follows:

- (a) Notwithstanding any provision of law to the contrary, a pharmacist may, in good faith, dispense to a patient without proper authorization the number of dosages necessary to allow such patient to secure such authorization from such patient's prescriber not to exceed a seventy-two (72) hour supply, if:
 - (1) The patient offers satisfactory evidence to the pharmacist that the prescriber has placed the patient on the maintenance medication, and that such patient is without valid refills, or for some valid reason cannot obtain proper authorization; and
 - (2) In the judgment of the pharmacist, the health, safety and welfare of the patient would otherwise be endangered.

- (b) This section shall not be construed to authorize dispensing of controlled substance medication without proper authorization.

Respondent's violation(s) of Tenn. Code Ann. §63-10-407 constitute(s) grounds for the revocation or suspension of his license to engage in the practice of pharmacy in the State of Tennessee and the pharmacy license for Brooks Pharmacy pursuant to Tenn. Code Ann. §63-10-305 and/or the imposition of other lawful discipline, including the imposition of civil penalties pursuant to Tenn. Code Ann. §63-10-305 and Tenn. Comp. R. & Regs. Rule 1140-8-.01 [CIVIL PENALTIES] as well as the assessment of investigatory and hearing costs against the Respondent pursuant to Tenn. Code Ann. § 56-1-311 and Tenn. Comp. R. & Regs. Rule 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS]

3. It is further alleged that the Respondent's acts and conduct as set out in the foregoing "Allegations of Fact" constitute violation(s) of Tenn. Comp. R. & Regs. Rule 1140-1-.01(1) [PHARMACISTS AND PHARMACY INTERNS], the relevant portion of which reads as follows:

- (1) A pharmacist shall hold the health and safety of patients to be the first consideration and shall render to each patient the full measure of the pharmacist's ability as an essential health practitioner.

Respondent's violation(s) of Tenn. Comp. R. & Regs. Rule 1140-1-.01(1) constitute(s) grounds for the revocation or suspension of the Respondent's license to engage in the practice of pharmacy in the State of Tennessee and the pharmacy license for Brooks Pharmacy pursuant to Tenn. Code Ann. §63-10-305 and/or the imposition of other lawful discipline, including the imposition of civil penalties pursuant to Tenn. Code Ann. § 63-10-305 and Tenn. Comp. R. & Regs. Rule 1140-8-.01 [CIVIL PENALTIES] as well as the assessment of investigatory and

hearing costs against the Respondent pursuant to Tenn. Code Ann. §56-1-311 and Tenn. Comp. R. & Regs. Rule 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS].

4. It is further alleged that the Respondent's acts and conduct as set out in the foregoing "Allegations of Fact" constitute violation(s) of Rule 1140-2-.01(4) [PHARMACISTS AND PHARMACY INTERNS], the relevant portion of which read as follows:

- (4) A pharmacist shall observe the law, uphold the dignity and honor of the profession, and accept its ethical principles. A pharmacist shall not engage in any activity that will bring discredit to the profession, and shall expose, without fear or favor, illegal or unethical conduct in the profession.

Respondent's violation(s) of Tenn. Comp. R. & Regs. Rule 1140-1-.01(4) constitute(s) grounds for the revocation or suspension of the Respondent's license to engage in the practice of pharmacy in the State of Tennessee and the pharmacy license for Brooks Pharmacy pursuant to Tenn. Code Ann. §63-10-305 and/or the imposition of other lawful discipline, including the imposition of civil penalties pursuant to Tenn. Code Ann. §63-10-305 and Tenn. Comp. R. & Regs. Rule 1140-8-.01 [CIVIL PENALTIES] as well as the assessment of investigatory and hearing costs against the Respondent pursuant to Tenn. Code Ann. §56-1-311 and Tenn. Comp. R. & Regs. Rule 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS].

5. It is further alleged that the Respondent's acts and conduct as set out in the foregoing "Allegations of Fact" constitute violation(s) of Rule 1140-2-.01(10) [PHARMACISTS AND PHARMACY INTERNS], the relevant portion of which read as follows:

- (10) A pharmacist shall, by utilizing education, skill, experience, and professional judgment, made every reasonable effort to prevent the abuse of drugs which the pharmacist dispenses.

Respondent's violation(s) of Tenn. Comp. R. & Regs. Rule 1140-1-.01(10) constitute(s) grounds for the revocation or suspension of the Respondent's license to engage in the practice of pharmacy in the State of Tennessee and the pharmacy license for Brooks Pharmacy pursuant to Tenn. Code Ann. §63-10-305 and/or the imposition of other lawful discipline, including the imposition of civil penalties pursuant to Tenn. Code Ann. §63-10-305 and Tenn. Comp. R. & Regs. Rule 1140-8-.01 [CIVIL PENALTIES] as well as the assessment of investigatory and hearing costs against the Respondent pursuant to Tenn. Code Ann. §56-1-311 and Tenn. Comp. R. & Regs. Rule 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS].

6. It is further alleged that the Respondent's acts and conduct as set out in the foregoing "Allegations of Fact" constitute violation(s) of Rule 1140-2-.01(11)(a) and (c) [PHARMACISTS AND PHARMACY INTERNS], the relevant portion of which read as follows:

- (11) A pharmacist shall provide pharmaceutical service:
 - (a) which is as complete as the public may reasonably expect; and
 - (c) without compromising the kind or extent of services or facilities made available.

Respondent's violation(s) of Tenn. Comp. R. & Regs. Rule 1140-2-.01(11) constitute(s) grounds for the revocation or suspension of his license to engage in the practice of pharmacy in the State of Tennessee and the pharmacy license for Brooks Pharmacy pursuant to Tenn. Code Ann. §63-10-305 and/or the imposition of other lawful discipline, including the imposition of civil penalties pursuant to Tenn. Code Ann. §63-10-305 and Tenn. Comp. R. & Regs. Rule 1140-8-.01 [CIVIL PENALTIES] as well as the assessment of investigatory and hearing costs against

the Respondent pursuant to Tenn. Code Ann. §56-1-311 and Tenn. Comp. R. & Regs. Rule 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS].

7. It is further alleged that the Respondent's acts and conduct as set out in the foregoing "Allegations of Fact" constitute violation(s) of Rule 1140-3-.03(6)(a) [MEDICAL AND PRESCRIPTION ORDERS], the relevant portion of which read as follows:

(6) No pharmacist, or pharmacy intern or pharmacy technician under the supervision of a pharmacist, shall compound or dispense any medical or prescription order except upon the following conditions:

(a) All medical and prescription orders shall be compounded and dispensed in strict conformity with any directions of the prescriber. Nothing in this rule shall prohibit a pharmacist from substituting a therapeutically equivalent prescription drug or device or related material containing the same active ingredient or ingredients, dosage form and strength.

Respondent's violation(s) of Tenn. Comp. R. & Regs. Rule 1140-3-.03(6)(a) constitute(s) grounds for the revocation or suspension of his license to engage in the practice of pharmacy in the State of Tennessee and the pharmacy license for Brooks Pharmacy pursuant to Tenn. Code Ann. §63-10-305 and/or the imposition of other lawful discipline, including the imposition of civil penalties pursuant to Tenn. Code Ann. §63-10-305 and Tenn. Comp. R. & Regs. Rule 1140-8-.01 [CIVIL PENALTIES] as well as the assessment of investigatory and hearing costs against the Respondent pursuant to Tenn. Code Ann. §56-1-311 and Tenn. Comp. R. & Regs. Rule 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS].

8. It is further alleged that the Respondent's acts and conduct as set out in the foregoing "Allegations of Fact" constitute violation(s) of Rule 1140-3-.06 [LABELING REQUIREMENTS], the relevant portion of which read as follows:

The dispensing label for a medical or prescription order shall bear at least the following information: name and address and telephone number of pharmacy practice site; the medical or prescription order serial number, name of prescriber; name of patient;

directions for use; date medical or prescription order originally dispensed, and refill date; "poison," "shake", "caution", or other appropriate advisory label; name of product (unless otherwise required by the prescriber); and expiration date of the product (if applicable).

Respondent's violation(s) of Tenn. Comp. R. & Regs. Rule 1140-3-.06 constitute(s) grounds for the revocation or suspension of his license to engage in the practice of pharmacy in the State of Tennessee and the pharmacy license for Brooks Pharmacy pursuant to Tenn. Code Ann. §63-10-305 and/or the imposition of other lawful discipline, including the imposition of civil penalties pursuant to Tenn. Code Ann. §63-10-305 and Tenn. Comp. R. & Regs. Rule 1140-8-.01 [CIVIL PENALTIES] as well as the assessment of investigatory and hearing costs against the Respondent pursuant to Tenn. Code Ann. §56-1-311 and Tenn. Comp. R. & Regs. Rule 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS].

9. It is further alleged that the Respondent's acts and conduct as set out in the foregoing "Allegations of Fact" constitute violation(s) of Rule 1140-3-.12(1) [STORAGE, SALE AND DELIVERY], the relevant portion of which read as follows:

- (1) All prescription drugs and controlled substances and devices and related materials shall be stored in an area not accessible to the public.

Respondent's violation(s) of Tenn. Comp. R. & Regs. Rule 1140-3-.12(1) constitute(s) grounds for the revocation or suspension of his license to engage in the practice of pharmacy in the State of Tennessee and the pharmacy license for Brooks Pharmacy pursuant to Tenn. Code Ann. §63-10-305 and/or the imposition of other lawful discipline, including the imposition of civil penalties pursuant to Tenn. Code Ann. §63-10-305 and Tenn. Comp. R. & Regs. Rule 1140-8-.01 [CIVIL PENALTIES] as well as the assessment of investigatory and hearing costs against the Respondent pursuant to Tenn. Code Ann. §56-1-311 and Tenn. Comp. R. & Regs. Rule 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS].

10. It is further alleged that Respondent's acts and conduct, as set out in the foregoing "Allegations of Fact," amount to dishonorable, immoral, unethical or unprofessional conduct" in the practice of pharmacy pursuant to Tenn. Code Ann. §63-10-305(6) and constitute grounds for the revocation or suspension by the Board of Respondent's license to engage in the practice of pharmacy in the State of Tennessee and pharmacy license for Brooks Pharmacy and/or the imposition of other lawful discipline, including the imposition of civil penalties pursuant to Tenn. Code Ann. § 56-1-308(a) and Rule 0120-2-.09 [CIVIL PENALTIES] of the Board's Rules of Professional Conduct and costs pursuant to Tenn. Code Ann. § 56-1-311 and Tenn. Comp. R. & Regs. Rule 0780-5-11-.01 [ASSESSMENT OF INVESTIGATORY AND HEARING COSTS].

JUDGMENT

WHEREFORE, it is hereby **ORDERED AND ADJUDGED** that Respondent's license to engage in the practice of pharmacy in the State of Tennessee (license number: 2863) and the pharmacy license for Brooks Pharmacy (license number: 914) are both hereby **REVOKED**. Any future application for registration shall be treated as a new application and shall be required to meet the registration requirements of the law and rules that are in effect at the time of the new application.

This Final Order shall take effect upon filing with the Administrative Procedures Division of the Office of the Secretary of State.

POLICY REASONS FOR THE BOARD'S DECISION

It is the duty of the Board of Pharmacy to protect the health, safety and welfare of the citizens of the State of Tennessee. It is also the duty of the Board of Pharmacy to revoke a license for engaging in illegal, immoral, unethical and unprofessional conduct and for violating Board of Pharmacy rules.

REVIEW OF FINAL ORDER

Within fifteen (15) days after the effective date of the Final Order, any party may petition the Tennessee Board of Pharmacy for reconsideration of the Final Order. If no action is taken within twenty (20) days of the filing of the petition, it is deemed denied.

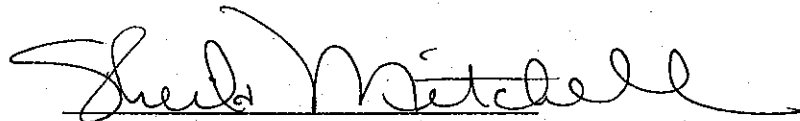
Any party may petition the Board for a stay of the Final Order within seven (7) days after the effective date of the Final Order.

Any party may seek judicial review of the Final Order by filing a petition for review in Chancery Court having jurisdiction within sixty (60) days after the effective date of the Final Order. A petition for reconsideration does not act to extend this sixty (60) day period; however, if the petition is granted, then this sixty (60) day period commences from the effective date of the Final Order disposing of the petition.

Any petition relative to a review of the Final Order or petition to Stay the Judgment of a Final Order is to be filed with the Administrative Procedures Division, Office of the Secretary of State, and the Tennessee Board of Pharmacy.

This Final Order shall be effective upon filing with the Administrative Procedures Division of the Office of the Secretary of State.

ENTERED this the 17th day of May, 2007.



Sheila Mitchell,
President of Tennessee Board of Pharmacy

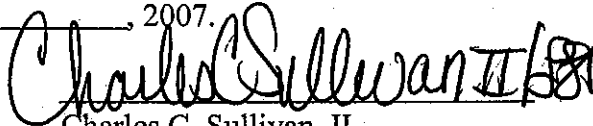
APPROVED:



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Filed in the Office of the Secretary of State, Administrative Procedures Division, this

17th day of May, 2007.



Charles C. Sullivan, II
Director
Administrative Procedures Division

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Final Order has been mail,
Certified, Return Receipt Requested, to Jack Butler, Butler and Associates, AmSouth Center,
Suite 109, 315 Deaderick Street, Nashville, Tennessee 37238 on this 17th day of
May, 2007.



Alison G. Cleaves